In the High Court of Judicature at Madras

Dated: 09.01.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Petition No.905 of 2007
and MP.No.1 of 2007

N. Nisar Ahmed ..Petitioner

..vs..

The Member Secretary
Chennai Metropolitan Development
Authority, Egmore
Chennai 8. ..Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorari as stated therein.

For Petitioner : Mr. K.M. Vijayan, Sr.Counsel
for Mr. M.B. Mushtaque.

For Respondent : Mr. J. Ravindran

..

ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

Aggrieved by the letter dated 30.11.2006, calling upon the petitioner to demolish the building in question and restore the land, the petitioner has filed the above writ petition to quash the said letter.

2. On direction, Mr. J. Ravindran, takes notice for the respondent.

3. Heard the learned counsel for the petitioner as well as respondent.

4. The grievance expressed by the petitioner in his representation dated 26.12.2006 to the Member Secretary, Chennai Metropolitan Development Authority, is that, he purchased the entire second floor of the building

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measuring an extent of 1080 sq.ft. situated at Old No.13, New No.25, Razool Omur Bahadur VI Street, Halls Garden, Royapettah, Chennai 14, together with 418 sq.ft. undivided share of land out of total extent of 1659 sq.ft. from M.S. Thomas, Antony Zachariah and Priya Shaju through a registered document vide No.368/2005 dt.28.03.2005 on the file of the Sub-Registrar, Triplicane and that the plan for the construction at the premises was approved by the Assistant Executive Engineer, 9th Circle, Corporation of Chennai and building permission was also approved by the Chennai Corporation on 10.02.1981. It is further stated that the one of his vendor, viz., M.S. Thomas constructed the 2nd floor in the year 1981 and the petitioner paid property to the Corporation of Chennai from 1981 onwards and the second floor of the said building is 25 years old building. In those circumstances, according to the petitioner, the demolition notice issued by the Chennai Metropolitan Development Authority is not warranted and he was not given adequate opportunity to put forth his case.

5. It is also brought to our notice that the very same notice was issued to one A.K. Kahader Basha, in respect of the construction in third floor. The same was challenged before this Court in W.P.No.468 of 2007. Taking note of similar representation, this Court, by order dated 04.01.2007, directed the Chennai Metropolitan Development Authority to consider and pass orders on his representation in accordance with law and till such final order being passed in the said representation, this court directed the respondent not to implement the demolition notice dated 30.11.2006.

6. As rightly pointed out, in view of the factual details as stated in the form of representation dated 26.12.2006 to the Member Secretary, Chennai Metropolitan Development Authority, we are of the view that ends of justice would be met by directing the respondent to consider and pass orders on the said representation in accordance with law. Till such final decision/order being taken by the authority concerned, the impugned demolition notice dated 30.11.2006 shall not be implemented.

The writ petition is disposed of on the above terms. No costs. Consequently, connected MP., is closed.

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Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
The Member Secretary
Chennai Metropolitan Development
Authority, Egmore
Chennai 8.

+ 1 CC To Mr. M.B.Mushtaque, Advocate SR NO. 1773

Writ Petition No.905/07

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